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Over the last few years the Houston Police Department, along with Police Organizations across the state, have recognized a significant increase in credit card abuse and “skimming” cases across the state. In these cases, the perpetrators utilize electronic devices placed inside of the point of sales system on fuel pumps, or externally on an ATM machine, with the purpose of capturing the account data stored electronically on a credit or debit card.

Banks are reporting that Texas represents 42% of loss suffered by their institutions nationwide. In Texas, it is difficult to find a room of individuals where at least 75% of them have not fallen victim to this crime. In speaking with suspects involved with this criminal activity they have pointed out that Texas is favorable for their activity because we are ill equipped to deal with the problem. Arrested suspects say that Texas is so widespread geographically there is a wealth of opportunity due to our large volume of commerce. Even more importantly, the Houston area is responsible for 28% of the credit card fraud Nationwide.

The area of crime that I work in is constantly changing because it pertains to ecommerce, fraud and organized criminal organizations that seek to take advantage of any vulnerability as well as profit from the victimization of others. As such, the laws we use to prosecute these crimes do not necessarily stay as current and do not always provide the tools we need efficiently prosecute these crimes.

In the case of “gas pump skimmers” the suspect will take the credit and debit card numbers obtained from the pumps and then reprogram the magnetic stripe on the back of another prepaid Walmart card, Greendot card, a blank white plastic card or of a completely counterfeit card produced and printed for this purpose. The magnetic stripe will now contain all that is necessary to make a purchase with victim’s account.

House Bill 2626 will provide definitions that will allow law enforcement, and prosecutors, to prosecute cases involving these skimmed cards under 32.31 as counterfeit credit cards.

In cases involving these suspects who work in groups and travel to commit their crimes, the account holders may be in a different state or country. In House Bill 2624 changes are present that will allow prosecutors to adjudicate the case in any county where the offense was committed or in the county where the victim resides. It also utilizes a current article in the Criminal Code of Procedure that provides that the bank, or any other entity victimized by the crime, may be the victim in the case.

House Bill 2625 addresses a long-standing issue with the prosecution of these cases. Many times, when we arrest the individuals who are responsible for “gas pump” or “ATM skimming”, they have

multiple counterfeit cards in their possession. Sometimes they have hundreds of victims account numbers in their possession on the counterfeit cards in their possession. Currently, the only way that we can prosecute the defendant at higher than a state jail felony is to utilize Texas Penal Code 32.51 Fraudulent Use or Possession of Identifying Information. Since this crime was intended to be utilized against defendant committing the offense of identity theft, it requires the investigators to contact every single account holder to determine whether they gave consent for their card number to be programmed to magnetic stripe on a counterfeit card. It would also require that we bring these account holders as witnesses to trial (almost impossible). The creation of Sec. 32.2315 would provide a much more applicable statute for prosecution of these defendants who choose to traffic, use, or produce these counterfeit cards.

House Bill 2945 amends the Business and Commerce Code and gives the Texas Department of Agriculture the right to inspect and check for skimming devices on fuel pumps. In addition, it provides penalties for those gas stations that are repeatedly found with skimming devices on their pumps but refuse to upgrade the security of their pumps. There are several relatively inexpensive measures that can be put into place that would make it extremely difficult for suspects to successfully place skimming devices on fuel pumps. Unfortunately, many gas stations will not invest in these measures because they are losing very little money due to these crimes. Although the suspects do come back to the same gas stations to purchase fuel using the stolen debit and credit cards, the gas stations do not take a loss. Instead, due to current banking guidelines, the banks are the entity that absorb the loss in most of these cases. In addition, we have had several cases where gas stations have failed to report the discovery of these devices in order to avoid losing business due to consumers avoiding their pumps. This bill also has criminal penalties built-in for those that would fail to report these devices to law enforcement or that would purposely destroy evidence.